

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

REMARKS

The Office action has been carefully considered. The Office action rejected claims 1-5, 7-13, 15-20 and 22-47 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,662,312 to Keller et al. ("Keller"). Further, the Office action rejected claims 6 and 21 under 35 U.S.C. § 103(a) as unpatentable over Keller in view of U.S. Patent No. 6,779,134 to Laviolette et al. ("Laviolette"). Applicants respectfully disagree.

By present amendment, claims 1, 16, 28, 30, and 42 have been amended for clarification and not in view of the prior art. Applicants submit that the claims as filed were patentable over the prior art of record, and that the amendments herein are for purposes of clarifying the claims and/or for expediting allowance of the claims and not for reasons related to patentability. Reconsideration is respectfully requested.

Applicants thank the Examiner for the interview held (by telephone) on August 17, 2005. During the interview, the Examiner and applicants' attorney discussed the claims with respect to the prior art. The essence of applicants' position is incorporated in the remarks below.

Prior to discussing reasons why applicants believe that the claims in this application are clearly allowable in view of the teachings of the cited and applied references, a brief description of the present invention is presented.

The present invention is directed to a system and method by which a software product may be tested on multiple client computers on various platforms. Product developers may submit requests for tests on their products, in the form of

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

test packets, to a test component. For each platform and language (*i.e.*, group) on which a product developer wants a product tested, the product developer may provide a test packet that defines tests that the product developer wants conducted on the product in that group. The test component may search, via an autolab component conducting an availability assessment, for an available client machine for performing the tests in the test packet. The autolab component may find an available client computer suitable to perform the test and the client machine may then be assigned the test packet. The client machine may perform the tasks in the test packet, and forward the results back to the test component. Note that the above description is for example and informational purposes only, and should not be used to interpret the claims, which are discussed below.

§102(e) Rejections

Turning to the claims, amended claim 1 recites a computer test system, comprising an interface configured to receive a request for performance of test jobs on multiple machines, each of the test jobs including a defined platform for performance of the test jobs and an autolab component configured to select one of the multiple machines as a selected machine based upon a platform on the selected machine and based upon an availability of loading capacity of the selected machine, and to act on the request by assigning at least one of the test jobs to the selected machine.

The Office action rejected claim 1 as being anticipated by Keller. More specifically, the Office action contends that Keller teaches a computer test system comprising an interface configured to receive a request for performance of test jobs

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

on multiple machines. Column 1, lines 52-59 of Keller is referenced. Further, the Office action contends that Keller teaches that each of the test jobs includes a defined platform for performance of the test jobs. Column 4, lines 61-63 of Keller is referenced. Still further, the Office action contends that Keller teaches an autolab component configured to select one of the multiple machines as a selected machine based upon a platform on the selected machine. Again, column 1, lines 52-59 of Keller is referenced. Finally, the Office action contends that Keller teaches acting on the request by assigning at least one of the test jobs to the selected machine. The same citation, column 1, lines 52-59 of Keller is, again, referenced. Applicants respectfully disagree.

As has been pointed out in previous Office action responses, Keller is directed to an automatic software testing system for testing several "images" (*i.e.*, software packets to be tested) that may be distributed across multiple software platforms and/or client machines. The system of Keller employs a test engine for providing a liaison between some kind of user interface and various platforms. A user may utilize the test engine to direct images to be tested to be sent to an appropriate test component that may be located on any platform. The system of Keller is pre-programmed to coordinate the distribution of the images to be tested based only on input from the user identifying the particular environment (*i.e.*, operating system) in which the image is to be tested. The test engine, however, is limited to the known testing ports that have been pre-programmed. See column 1, line 60 to column 2, line 12 of Keller. If the test engine receives instruction to test an image in a specific platform, the test engine merely forwards the image to the

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

appropriate platform in a manner transparent to the user. The test engine, however, cannot determine if the particular platform (*i.e.*, client machine) for assignment even exists (*i.e.*, available) much less if the platform is over-loaded or busy. In short, the test engine is nothing more than a portal through which commands may pass.

In contrast, claim 1 is directed to a testing system that employs an assessment of both platform capability and platform availability prior to assigning a test job to a client machine. More particularly, the autolab component of the present invention may first assess which client machine or client machines have thereon the specific environment needed to perform a particular test job. Then, the autolab component may assess the availability (e.g., based on loading capacity and current job tasks) of suitable client machines and/or platforms and may assign the test job to a particular client machine having availability.

In terms of the language recited in claim 1, the computer test system comprises an autolab component configured to select one of the multiple machines as a selected machine based upon a platform on the selected machine and based upon an availability of the selected machine. Because Keller does not teach, let alone show any cognizance of assessing the availability of the selected machine, Keller cannot possibly be construed to teach the recitations of claim 1.

Notwithstanding these differences, claim 1 has been amended to recite an autolab component configured to select one of the multiple machines as a selected machine based upon an availability of loading capacity of the selected machine. That is, the autolab component determines whether or not the selected machine

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

has available capacity for executing additional tasks, *i.e.*, has available loading capacity. Clearly since the system of Keller cannot even determine whether another computer is available, it certainly cannot determine if another computer has available loading capacity. Applicants submit that claim 1 is allowable over the prior art of record for at least these reasons.

Applicants respectfully submit that dependent claims 2-5, 7-13, and 15, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 1 and consequently includes the recitations of independent claim 1. As discussed above, Keller fails to disclose or suggest the recitations of claim 1 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 1 noted above, each of these dependent claims includes additional patentable elements.

For example, claim 5 recites the computer test system of claim 1, wherein the test component is configured to create a personalized test package for the selected machine based upon the platform and applications available at the client machine. As discussed above, Keller does not assess anything about client machines. Thus, Keller cannot possibly be construed to teach creating a personalized test package for the selected machine based upon the platform and applications available at the client machine as recited in claim 5. Applicants submit that claim 5 is allowable over the prior art of record for at least this additional reason.

As another example, claim 15 recites the computer test system of claim 1, wherein the autolab component selects the selected machine based upon the

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

present imaging of the selected machine. Again, as discussed above, Keller does not assess anything about client machines. Thus, Keller cannot possibly be construed to teach selecting the selected machine based upon the present imaging of the selected machine as recited in claim 15. Applicants submit that claim 15 is allowable over the prior art of record for at least this additional reason.

Turning to the next independent claim, amended claim 16 recites a computer test system comprising storage for a request for performance of test jobs on multiple machines, each of the test jobs including a defined platform for performance of the test jobs and an autolab component configured to select one of the multiple test machines as a selected machine based upon availability of loading capacity thereof, and to act on the request by assigning at least one of the test jobs to the selected machine.

The Office action rejected claim 16 as anticipated by Keller. More specifically, the Office action contends that Keller teaches the recitations of claim 16 by referencing Keller's software testing automation system described in column 1, line 50 to column 4, line 26. Applicants respectfully disagree.

As discussed above, Keller is directed to an automatic software testing system for testing several images that are spread across multiple software platforms. The test engine of Keller is pre-programmed to coordinate the distribution of the images to be tested based only on input from the user identifying the particular environment in which the image is to be tested. The test engine is limited to the known testing ports that have been pre-programmed and cannot

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

assess anything about any particular platform in which images are being distributed.

In contrast, claim 16 is directed to a testing system that may employ an assessment of both platform capability and platform availability prior to assigning a test job to a client machine. In specific, the autolab component of the present invention may first assess which client machine or client machines have thereon the specific environment needed to perform a test job. Then, the autolab component may assess the availability of suitable client machines and/or platforms and may assign the test job to a particular client machine having availability.

In terms of the language recited in claim 16, the computer test system comprises an autolab component configured to select one of the multiple test machines as a selected machine based upon availability thereof. Because Keller does not teach, let alone show any cognizance of assessing the availability of the selected machine, Keller cannot possibly be construed to teach the recitations of claim 16.

Notwithstanding these differences, claim 16 has been amended to recite an autolab component configured to select one of the multiple test machines as a selected machine based upon availability of loading capacity thereof. That is, the autolab component determines whether or not the selected machine has available capacity for executing additional tasks, *i.e.*, has available loading capacity. Clearly since the system of Keller cannot even determine whether another computer is available, it certainly cannot determine if another computer has available loading

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

capacity. Applicants submit that claim 16 is allowable over the prior art of record for at least these reasons.

Applicants respectfully submit that dependent claims 17-20 and 22-27, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 16 and consequently includes the recitations of independent claim 16. As discussed above, Keller fails to disclose or suggest the recitations of claim 16 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 16 noted above, each of these dependent claims includes additional patentable elements.

Turning to the next independent claim, amended claim 28 recites a computer system comprising a plurality of test machines, a computer test system comprising storage for a request for the performance of test jobs on multiple machines, each of the test jobs including a defined platform for performance of the test jobs and an autolab component configured to select one of multiple test machines based upon the platform thereon and based on the availability of loading capacity thereof, and to act on the request by assigning at least one of the test jobs to the selected machine.

The Office action rejected claim 28 as anticipated by Keller. More specifically, the Office action again contends that Keller teaches the recitations of claim 28 by referencing Keller's software testing automation system described in column 1, line 50 to column 4, line 26. Applicants respectfully disagree.

As discussed above, Keller is directed to an automatic software testing system for testing several images that are spread across multiple software

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

platforms. The test engine of Keller is pre-programmed to coordinate the distribution of the images to be tested based only on input from the user identifying the particular environment in which the image is to be tested. The test engine is limited to the known testing ports that have been pre-programmed and cannot assess anything about any particular platform in which images are being distributed.

In contrast, claim 28 is directed to a testing system that may employ an assessment of both platform capability and platform availability prior to assigning a test job to a client machine. In specific, the autolab component of the present invention may first assess which client machine or client machines have thereon the specific environment needed to perform a test job. Then, the autolab component may assess the availability of all suitable client machines and/or platforms and may assign the test job to a particular client machine having availability.

In terms of the language recited in claim 28, the computer test system comprises an autolab component configured to select one of the multiple test machines as a selected machine based upon availability thereof. Because Keller does not teach, let alone show any cognizance of assessing the availability of the selected machine, Keller cannot possibly be construed to teach the recitations of claim 28.

Notwithstanding these differences, claim 28 has been amended to recite an autolab component configured to select one of the multiple test machines as a selected machine based upon availability of loading capacity thereof. That is, the

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

autolab component determines whether or not the selected machine has available capacity for executing additional tasks, *i.e.*, has available loading capacity. Clearly since the system of Keller cannot even determine whether another computer is available, it certainly cannot determine if another computer has available loading capacity. Applicants submit that claim 28 is allowable over the prior art of record for at least these reasons.

Applicants respectfully submit that dependent claim 29, by similar analysis, is allowable. This claim depends directly from claim 28 and consequently includes the recitations of independent claim 28. As discussed above, Keller fails to disclose or suggest the recitations of claim 28 and therefore this claim is also allowable over the prior art of record. In addition to the recitations of claim 28 noted above, claim 29 includes additional patentable elements.

Turning to the next independent claim, amended claim 30 recites a computer system, comprising a test component configured to receive a request for the performance of a test job on a computer, a manager component for causing the test job to be performed based on an availability of loading capacity of resources, and an image component in which the test job is conducted.

The Office action rejected claim 30 as anticipated by Keller. More specifically, the Office action again contends that Keller teaches the recitations of claim 30 by referencing Keller's software testing automation system described in column 1, line 50 to column 4, line 26. Applicants respectfully disagree.

As discussed above, Keller is directed to an automatic software testing system for testing several images that are spread across multiple software

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

platforms. The test engine of Keller is pre-programmed to coordinate the distribution of the images to be tested based only on input from the user identifying the particular environment in which the image is to be tested. The test engine is limited to the known testing ports that have been pre-programmed and cannot assess anything about any particular platform in which images are being distributed.

In contrast, claim 30 is directed to a testing system that employs an assessment of resource availability prior to assigning a test job to a client machine. In specific, a manager component of the present invention may first assess which client machine or client machines have thereon the specific environment needed to perform a test job. Then, the manager component may assess the availability of all suitable client machines and/or platforms and may assign the test job to a particular client machine having availability of resources.

In terms of the language recited in claim 30, the computer system comprises a manager component for causing the test job to be performed based on an availability of resources. Because Keller does not teach, let alone show any cognizance of assessing the availability of resources, Keller cannot possibly be construed to teach the recitations of claim 30.

Notwithstanding these differences, claim 30 has been amended to recite a manager component for causing the test job to be performed based on an availability of loading capacity of resources. That is, the manager component determines whether or not the selected machine has available capacity for executing additional tasks, *i.e.*, has available loading capacity. Clearly since the

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

system of Keller cannot even determine whether another computer is available, it certainly cannot determine if another computer has available loading capacity. Applicants submit that claim 30 is allowable over the prior art of record for at least these reasons.

Applicants respectfully submit that dependent claims 31-41, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 30 and consequently includes the recitations of independent claim 30. As discussed above, Keller fails to disclose or suggest the recitations of claim 30 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 30 noted above, each of these dependent claims includes additional patentable elements.

Turning to the last independent claim, amended claim 42 recites a computer-implemented method comprising receiving a request for performance of test jobs on multiple machines, each of the test jobs including a defined platform for performance of the test jobs, selecting one of the multiple machines as a selected machine based upon a platform on the selected machine and based on the availability of loading capacity thereof, and acting on the request by assigning one of the test jobs to the selected machine.

The Office action rejected claim 42 as anticipated by Keller. More specifically, the Office action again contends that Keller teaches the recitations of claim 42 by referencing Keller's software testing automation system described in column 1, line 50 to column 4, line 26. Applicants respectfully disagree.

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

As discussed above, Keller is directed to an automatic software testing system for testing several images that are spread across multiple software platforms. The test engine of Keller is pre-programmed to coordinate the distribution of the images to be tested based only on input from the user identifying the particular environment in which the image is to be tested. The test engine is limited to the known testing ports that have been pre-programmed and cannot assess anything about any particular platform in which images are being distributed.

In contrast, claim 42 is directed to a computer-implemented method that may employ an assessment of resource availability prior to assigning a test job to a client machine. In specific, an autolab component of the present invention may first assess which client machine or client machines have thereon the specific environment needed to perform a test job. Then, the autolab component may assess the availability of all suitable client machines and/or platforms and may assign the test job to a particular client machine having availability of resources.

In terms of the language recited in claim 42, the method comprises selecting one of the multiple machines as a selected machine based upon a platform on the selected machine and based on the availability thereof. Because Keller does not teach, let alone show any cognizance of assessing the availability of the client machines, Keller cannot possibly be construed to teach the recitations of claim 42.

Notwithstanding these differences, claim 1 has been amended to recite selecting one of the multiple machines as a selected machine based upon a platform on the selected machine and based on the availability of loading capacity

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

thereof. That is, the selection is based on whether or not the selected machine has available capacity for executing additional tasks, *i.e.*, has available loading capacity. Clearly since the system of Keller cannot even determine whether another computer is available, it certainly cannot determine if another computer has available loading capacity. Applicants submit that claim 42 is allowable over the prior art of record for at least these reasons.

Applicants respectfully submit that dependent claims 43-47, by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 42 and consequently includes the recitations of independent claim 42. As discussed above, Keller fails to disclose or suggest the recitations of claim 42 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 42 noted above, each of these dependent claims includes additional patentable elements.

§103(a) Rejections

The Office action rejected claims 6 and 21 as being unpatentable over Keller in view of Laviolette. Applicants respectfully disagree. Claims 6 and 21 depend indirectly from independent claims 1 and 16 respectively and consequently include the recitations of these independent claims as well as any intervening claims. As discussed above in the sections addressing claims 1 and 16, respectively, Keller does not teach or suggest the recitations of either claim 1 or claim 16. Nor does Laviolette teach or suggest the recitations of either claim 1 or claim 16. Neither Keller nor Laviolette, whether considered alone or in any permissible combination by law, teach or suggest the recitations of claim 1. Nor does Keller or Laviolette,

In re Application of BEARDSLEY et al.
Serial No. 10/043,792

whether considered alone or in any permissible combination by law, teach or suggest the recitations of claim 16. Therefore claims 6 and 21 are also allowable over the prior art of record. Further, in addition to the recitations of claim 1 and 16 noted above, claims 6 and 21 include additional patentable elements which applicants submit make these claims allowable over the prior art of record.

For at least these additional reasons, applicants submit that all the claims are patentable over the prior art of record. Reconsideration and withdrawal of the rejections in the Office action is respectfully requested and early allowance of this application is earnestly solicited.

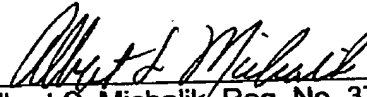
In re Application of BEARDSLEY et al.
Serial No. 10/043,792

CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that claims 1-13 and 15-47 are patentable over the prior art of record, and that the application is in good and proper form for allowance. A favorable action on the part of the Examiner is earnestly solicited.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (425) 836-3030.

Respectfully submitted,



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In re Application of BEARDSLEY et al.
Serial No. 10/043,792

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Response, along with transmittal, Petition for Extension of Time, Credit Card Payment Form, and facsimile cover sheet, are being transmitted by facsimile to the United States Patent and Trademark Office in accordance with 37 C.F.R. 1.6(d) on the date shown below:

Date: September 28, 2005



Albert S. Michalik

2700 Amendment